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12  
13 UNITED STATES DISTRICT COURT

14 NORTHERN DISTRICT OF CALIFORNIA, SAN FRANCISCO DIVISION

15  
16 ANTHONY OLIVER,

17 Plaintiff,

18 vs.

19 SQUARE, INC.,

20 Defendant.

Case No. 19-CV-04110-JSC

**DEFENDANT SQUARE, INC.'S  
MOTION TO ENLARGE TIME TO  
RESPOND TO PLAINTIFF'S  
COMPLAINT**

Judge: Hon. Jacqueline Scott Corley  
Crtrm: F, 15<sup>th</sup> Floor

1                                    **STATEMENT OF RELIEF SOUGHT**

2            Defendant Square, Inc. (“Square”) seeks an order, pursuant to Civil L.R. 6-3  
3 (“Motion to Change Time”), enlarging by 21 days the time to respond to Plaintiff’s  
4 Complaint. Because, absent the requested relief, Square’s response to Plaintiff’s  
5 Complaint is due on December 9, 2019, Square respectfully requests that the Court  
6 issue its order on or before December 6, 2019.

7                                    **STATEMENT OF ISSUES TO BE DECIDED**

- 8            1.        Whether Defendant Square should be provided an additional 21 days to  
9                        respond to Plaintiff’s Complaint.

10                                  **ARGUMENT**

11            On behalf of Plaintiff Anthony Oliver, the United States Marshals Service  
12 served the Complaint on Square’s registered agent on November 18, 2019. Dkt. No.  
13 17. Square’s response is therefore due on December 9, 2019—21 days from  
14 November 18, 2019. *See* Fed. R. Civ. P. 12(a)(1)(A)(i), 12(b). Square respectfully  
15 requests an extension of 21 days to respond to Plaintiff’s Complaint. Square’s  
16 request is supported by the Declaration of Rose Leda Ehler (“Ehler Decl.”), which  
17 addresses the matters identified in Civil L.R. 6-3(a)(1)-(6), as well as the following  
18 reasons:

19            **Reasons for Extension (Civil L.R. 6-3(a)(1)):** Square recently retained  
20 Munger Tolles & Olson LLP to represent it in this matter. Ehler Decl. ¶ 2.  
21 Plaintiff’s Complaint provides very few factual allegations (omitting, for example,  
22 which telephone number received the alleged text or his prior interactions with  
23 Square), making it difficult to investigate his claim, including whether he entered  
24 into an arbitration agreement. A brief extension would give counsel the necessary  
25 time to investigate the factual allegations in Plaintiff’s Complaint, including whether  
26 Plaintiff entered into an arbitration agreement and Plaintiff’s long litigation history,  
27 and file a response that would best assist the Court and move the case toward  
28 resolution. *Id.* ¶¶ 4–5.

**Square's Efforts to Obtain a Stipulation (Civil L.R. 6-3(a)(2)):** Plaintiff is incarcerated and has provided the Court with only a mailing address: #1002060648, Calhoon State Prison, P.O. Box 249, Morgan, GA 39866. Dkt. 18. Given the already-short window to respond, Square could not obtain Plaintiff's stipulation to the extension before filing this motion. Ehler Decl. ¶ 6.

**Prejudice if Extension Is Denied (Civil L.R. 6-3(a)(3)):** If an extension is denied, Square will be forced to respond to Plaintiff's Complaint without the benefit of a full investigation and in a very limited period of time. Ehler Decl. ¶ 7. This would likely result in less helpful briefing to the Court and, if Plaintiff has ultimately agreed to arbitrate, potentially wasted resources. *Id.*

**Previous Time Modifications (Civil L.R. 6-3(a)(5)):** There have been no previous time modifications in this case. Ehler Decl. ¶ 8.

**Effect of Extension on Case Schedule (Civil L.R. 6-3(a)(6)):** Granting Square the requested extension is highly unlikely to have any material effect on the case schedule or prejudice Plaintiff in any way. Ehler Decl. ¶ 9. The Court has not yet set a schedule. Nor is there any reason to believe that a reasonable extension of Square's time to respond would prejudice Plaintiff; however, denying the requested extension would prejudice Square and result in wasted resources. *Id.* ¶¶ 7, 9.

### **CONCLUSION**

For the foregoing reasons, Square respectfully requests the Court enter an order enlarging by 21 days the time to respond to Plaintiff's Complaint.

DATED: December 4, 2019

MUNGER, TOLLES & OLSON LLP

By: /s/ Rose Leda Ehler

ROSE LEDA EHLER

Attorneys for Defendant Square, Inc.